

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	Crim. No. 01-455-A
	)	Hon. Leonie M. Brinkema
ZACARIAS MOUSSAOUI	)	

GOVERNMENT'S RESPONSE TO COURT'S ORDER  
ON COMPUTER AND EMAIL EVIDENCE

The United States respectfully submits the following response, and the attached affidavit of FBI Special Agent Bridget A. Lawler, to the Court's Order dated August 27, 2002.

Based on the attached affidavit of Special Agent Lawler, we submit the following points:

1. The United States was never aware of the "xdesertman@hotmail.com" account until July 2002, when the defendant listed it in one of his pleadings. That the "xdesertman" account was not discovered is explained primarily by understanding that Hotmail is a free email system that does not verify an account holder's identity and that Hotmail is unable to provide the account used by a particular user on a particular computer at a particular date and time.
2. That the xdesertman@hotmail.com address was not discovered by the FBI is further explained because it is extremely difficult, if not impossible, to find Hotmail account names from a forensically examined computer, unless the user downloaded account information to the computer or to electronic storage media. As far the United States can discern, Moussaoui did not download to computer or electronic storage media any data indicating the xdesertman@hotmail.com account name.
3. After September 11, 2001, the FBI learned that Moussaoui had used a computer at Kinko's, in Eagan, Minnesota, to connect to the internet. When the FBI learned that Moussaoui

had used a computer at Kinko's, the FBI investigated that Kinko's store and was informed that the Kinko's had since erased the data from its computers, as is Kinko's regular practice. Accordingly, the FBI did not seize the computers from Kinko's, Eagan, Minnesota. And, as noted above, even if such computers were seized, it is highly unlikely that evidence of the "xdesertman@hotmail.com" account would have been discovered.

4. The FBI seized and searched Mukkarum Ali's computer from the apartment that Ali and Moussaoui shared in Norman, Oklahoma, and the FBI searched a computer from the University of Oklahoma that Moussaoui claims to have used. Searches of these computers did not turn up the "xdesertman@hotmail.com" email account.

5. On August 16, 2001, when Moussaoui was arrested by the INS in Minnesota, his laptop computer and a floppy diskette were seized. On September 11, 2001, the FBI obtained and executed a search warrant for these items. Moussaoui had saved email activity from his "pilotz123@hotmail.com" account to the floppy diskette. The FBI also discovered that email account because Moussaoui used it to communicate with flight schools and aviation-related entities. The email from that diskette has been examined and will be used at trial; it has also been produced in discovery in this case.

6. A copy of Moussaoui's lap top was given to two other government agencies for their review, but the FBI has received no result from any analysis they may have done.

The FBI conducted an aggressive and responsible investigation into Moussaoui's computer and email activity, particularly given the great demands placed on the FBI's computer investigation capabilities in the wake of the September 11 terrorist attacks. The email activity recovered from Moussaoui's laptop computer and floppy diskette after September 11 will be

offered at trial. Unfortunately, Hotmail email accounts are extremely difficult to trace, and Moussaoui's use of Kinko's computers was not known until after September 11, when it was too late – literally and figuratively – to find the “xdesertman@hotmail.com” account.

The United States is, of course, ready to offer any additional information or explanation required by the Court.

Respectfully Submitted,

Paul J. McNulty  
United States Attorney

By: /s/  
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Kenneth M. Karas  
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Assistant United States Attorneys

CERTIFICATE OF SERVICE

I certify that on September 4, 2002, a copy of the foregoing Government's Response was sent by hand delivery, via the United States Marshal's Service to:

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Alexandria, Virginia 22314

I further certify that on the same day a copy of the same attached pleading was sent by facsimile and regular mail to:

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/s/  
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